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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,466	08/18/2003	James Victor Cragg	USDP2212A-SOT2	7997

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EXAMINER

WEAVER, SUE A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/645,466

Applicant(s)

CRAGG, JAMES VICTOR

Examiner

Sue A. Weaver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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1. Applicant is advised that should claims 5-7 be found allowable, claims 8-10 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Remington in view of Eng.

Applicant is advised that Remington is considered to teach a holster made of padded or cushioned material as shown in Figure 8. Therefore the holster includes a pad body and a pouch panel attached to the front of the pad body. The pad body includes a holding portion at 31 and a flap with attachment at 28. Although the holster of Remington only has one holding portion or strap, Eng is considered to teach the provision of a pair of spaced apart holding portions at the top of a holster for securing a weapon. Therefore, to have provided the holster of Remington with a pair of straps at the top of the holster for securely retaining the weapon would have been obvious in view of such teaching by Eng at 20, 20'.

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3. Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 5 and 8 above, and further in view of Powell et al.

To have further provided the flap with a strap and buckle assembly to secure it to the pouch panel would have been obvious in view of such teaching by Powell et al. Note the buckle taught by Powell et al. To have merely reversed the orientation of the plug and socket would have been no more than a reversal of parts and therefore obvious.

4. Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 5 and 8 above, and further in view of Pitts.

To have merely shaped the pouch panel with a triangular shape attached to the pad body would have been obvious in view of Pitts teaching such a design for holsters.

5. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 2, 3 and 8 above, and further in view of Bianchi.

To have merely shaped the top edge of the pouch panel with a curved shape in the manner taught by Bianchi, would have been obvious to one having ordinary skill in the art.

6. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 11-13 above, and further in view of Katz et al.

Bianchi shows the use of a loop attached to the top of the holster body to attach to a belt. To have provided the holster of Remington with such a belt loop to change the orientation of the holster when suspended on a belt would have been obvious in view of Bianchi. Moreover to have secured the loop strap to itself with releasable fastening

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means for ease in detaching the holster from the belt, would have been obvious in view of Katz et al, teaching such loop fastening means for a belt attachment.

7. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 2, 8 and 15 above, and further in view of Baruch.

To have merely added straps and buckles to the edges of the pad body, so that the holster might be securely anchored, would have been obvious in view of Baruch, teaching such fastening means for a holster (note Figure 1).

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cawile, Jr. shows a holster with side and top straps secured to the holster body. Stella shows a holster with a tapered pouch panel symmetrically secured to the body. Davis, Wisser and Bowles et al show other reinforcing elements secured to the top of the holster. Lichtenberger shows the use of a strap and buckle for securing the top of the holster to a strap.

9. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (703) 308-1186. The examiner can normally be reached on Tuesday-Friday.

— The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SW

  
Sue A. Weaver  
Primary Examiner